

STATE OF MICHIGAN
COURT OF APPEALS

In re J. COLEMAN, Minor.

UNPUBLISHED
November 24, 2015

No. 327230
Berrien Circuit Court
Family Division
LC No. 2013-000029-NA

Before: MARKEY, P.J., and OWENS and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent-mother appeals as of right the April 1, 2015 order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) (failure to rectify conditions of adjudication), (g) (failure to provide proper care and custody), and (j) (child will be harmed if returned to parent). We affirm.

Respondent first argues that the trial court improperly found statutory grounds to terminate her parental rights. The trial court must find that at least one of the statutory grounds in MCL 712A.19b(3) has been met by clear and convincing evidence in order to support termination. *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). We review the trial court's decision for clear error. *Id.* A finding is clearly erroneous if it leaves us with a definite and firm conviction that a mistake has been made. *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

In this case, one of the statutory grounds under which the trial court found termination to be proper was MCL 712A.19b(3)(g), which provides that a trial court may terminate parental rights when "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." Respondent primarily focuses her argument on the latter half of this statutory ground, particularly that she would have been able to provide proper care for the minor child if she was given extra time. We disagree; we find the trial court's finding that termination was proper under MCL 712A.19b(3)(g) was not clearly erroneous.

Respondent had a lengthy substance abuse history and was entirely noncompliant with services for approximately two months leading up to the termination hearing. Before this period

of noncompliance, mother's participation in services was sporadic. Given respondent's failure to comply with the agency's requirements for drug screening, it is not evident from the record that she had rectified her substance abuse problem.¹ Moreover, respondent failed to obtain and maintain safe, stable, and independent housing over the course of the two-year proceeding. She also failed to obtain stable employment to demonstrate her ability to provide for the minor child's basic needs. Although respondent's therapist indicated that she had made some progress in counseling, respondent was discharged from therapy because of her lack of participation, and it was not apparent that her issues with emotional stability had been resolved. Respondent also continued to associate with an individual with whom contact was prohibited through her parole, and she was jailed numerous times as a result. Indeed, respondent expressly conceded at the termination hearing that she was not yet able to care for the child. Accordingly, the record evidence supported the trial court's finding that respondent failed to provide proper care and custody for the minor child.

Further, there is no evidence that respondent would have been "able to provide proper care and custody within a reasonable time considering" the minor child's age. MCL 712A.19b(3)(g). The minor child was two years old at the time of termination, and he had been in foster care for his entire lifetime. In that time, respondent failed to adequately address the barriers to reunification. She admitted that she stopped participating in services before the termination hearing because she "got discouraged." There is no indication that respondent would have reengaged in services, benefitted from those services, and been capable of providing care and custody to the minor child within a reasonable time, given the many issues left to address at the time of termination. Respondent contends that she had improved and stabilized, but her past suggested little cause for optimism that any such improvements would necessarily be permanent. Thus, a change in respondent's ability to provide for the minor child was only a "mere possibility." See *In re Williams*, 286 Mich App 253, 273; 779 NW2d 286 (2009). Accordingly, the trial court's decision to terminate respondent's parental rights under MCL 712A.19b(3)(g) was not clearly erroneous. Because we conclude that this one ground for termination existed, we need not consider the additional grounds upon which the trial court based its decision. *HRC*, 286 Mich App at 461.

Respondent also argues that termination was not in the best interests of the child. The trial court must find by a preponderance of the evidence that termination is in a child's best interest. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). We review the trial court's decision for clear error. *HRC*, 286 Mich App at 459. Factors to be considered include "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted).

¹ Although respondent still submitted to drug screens under her parole terms, her testing through parole was far less frequent than what was required by the agency. Also, respondent knew exactly when she was going to test for parole, whereas the agency required random drug screens.

The record supports that the minor child was doing well in his foster care placement and that the foster parents were willing to adopt. See *In re White*, 303 Mich App 701, 714; 846 NW2d 61 (2014). On the other hand, respondent had been inconsistent in parenting time throughout the case and had not seen the minor child in approximately two months at the time of the termination hearing. As noted, respondent also admitted at the termination hearing that she needed more time before she would be ready to have the minor child returned to her care. At the very least, respondent wanted to be discharged from parole before having the child returned. Although it is evident that respondent desired the ability to properly parent the child, good intentions are simply not sufficient; her prospects were highly dubious for being capable of providing him with the stability and permanency he deserved within the foreseeable future. *In re Frey*, 297 Mich App 242, 248-249; 824 NW2d 569 (2012). Accordingly, the trial court did not clearly err in finding that it was in the best interests of the child to terminate respondent's parental rights.

Affirmed.

/s/ Jane E. Markey
/s/ Donald S. Owens
/s/ Amy Ronayne Krause